

**WEST VIRGINIA
SECRETARY OF STATE
JOE MANCHIN, III
ADMINISTRATIVE LAW DIVISION**

Form #5

Do Not Mark In This Box

FILED

2004 MAY 21 A 11:29

OFFICE WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF AGENCY ADOPTION OF A PROCEDURAL OR INTERPRETIVE RULE
OR A LEGISLATIVE RULE EXEMPT FROM LEGISLATIVE REVIEW**

AGENCY: Department of Administration TITLE NUMBER: 186

CITE AUTHORITY: 5A-3A-4

RULE TYPE: PROCEDURAL INTERPRETIVE

EXEMPT LEGISLATIVE RULE

CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

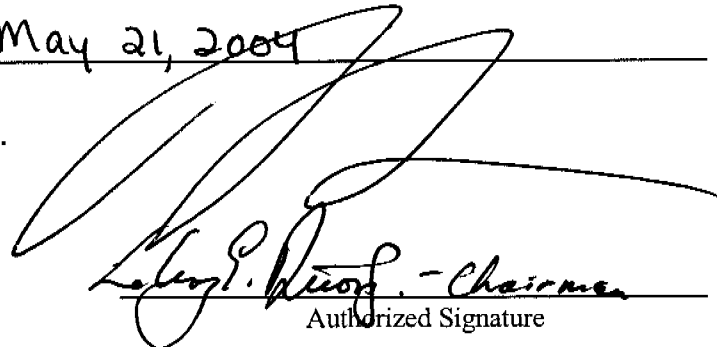
TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 5

TITLE OF RULE BEING PROPOSED: Monitoring the Central Nonprofit Agency

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE
EFFECTIVE DATE OF THIS RULE IS May 21, 2004

This rule is effective June 21, 2004.
The May 21 date is incorrect



Chairman
Authorized Signature



STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION
OFFICE OF THE CABINET SECRETARY

BOB WISE
GOVERNOR

TOM SUSMAN
ACTING CABINET SECRETARY

May 20, 2004

Via Hand-Delivery

The Honorable Joe Manchin, III
Secretary of State
Building 1, Suite 157K
1900 Kanawha Boulevard, East
Charleston, WV 25305

Re: Procedural Rules

Dear Secretary Manchin,

I am enclosing the "Notice of Agency Adoption of a Procedural or Interpretive Rule or a Legislative Rule Exempt From Legislative Review" as well as the original rules, the Comments and the Responses for filing. The new rules are in regard to the state use program and establishes rules for monitoring the central nonprofit agency. As requested, I am also enclosing a disc containing the rules.

Thank you very much for your assistance. If you have any questions, or need any additional information, please do not hesitate to give me a call.

Sincerely,

A handwritten signature in cursive script, appearing to read "Donna M. Lipscomb".

Donna M. Lipscomb
Executive Coordinator

DMP:dp
Enclosures

**TITLE 186
PROCEDURAL RULES
COMMITTEE FOR THE PURCHASE OF COMMODITIES
AND SERVICES FROM THE HANDICAPPED**

FILED

2004 MAY 21 A 11:29

**SERIES 5
RULES FOR MONITORING THE
CENTRAL NONPROFIT AGENCY**

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

186-5-1. General

1.1. Scope. - The scope of this procedural rule involves the monitoring of the Central Nonprofit Agency by the Committee for the Purchase of Commodities and Services from the Handicapped in relation to the Central Nonprofit Agency's compliance to statutory requirements, contract requirements and other performance standards set forth by the Committee for the Purchase of Commodities and Services from the Handicapped and in other sections of the code and rules.

1.2. Authority.- 5A-3A-4

1.3. Filing Date.-

1.4. Effective Date-

186-5-2. Definitions.

- 1) "Committee" - means the Committee for the Purchase of Commodities and Services from the Handicapped
- 2) "CNA" - means the Central Nonprofit Agency
- 3) "Program fee" - means the fee charged by the Central Nonprofit Agency for the administration and implementation of the program as referred to as the "CNA Service Charge" in rule 186CSR1.
- 4) "CRP" - also known as a Community Rehabilitation Program - means a nonprofit workshop as defined in §5A-1-1.
- 5) "Persons With Disabilities" - means "blind or severely disabled persons" as noted in §5A-1-1; "disabled persons" as noted in §5A-3A-1; "handicapped citizens" and "handicapped" as noted in §5A-3A-4(b) and "handicapped workers" as noted in §5A-3A-4(d).
- 6) "State Use Program" - means the program as defined in 5A-3-10- and Section 5A-3A-1 et seq.

186-5-3. Committee Responsibilities.

3.1 The Committee will develop performance standards annually, prior to the end of the calendar year, for the CNA for the purpose of advancing the employment of persons with disabilities through the state use program.

3.2 The Committee will have oversight over the revenues and expenses associated with the program fee to assure that said funds are used for the promotion, development and operation of the state use program and advancing the employment of persons with disabilities.

3.3 The Committee shall develop guidelines for the assignment of contracts associated with the state use program which shall be followed by the central non-profit agency.

186-5-4. CNA Responsibilities. Annually the CNA will develop and review an action plan to achieve and implement the performance standards as set forth by the Committee. The plan may include, but not be limited to goals for the following;

- (1) Number of persons with disabilities to be employed
- (2) Sales of commodities and services
- (3) Wages paid to persons with disabilities
- (4) Hours worked by persons with disabilities
- (5) Responsiveness to customer inquiries and/or complaints
- (6) Quality standards for participating CRPs
- (7) Training activities to increase CRP capability and efficiency
- (8) Financial Controls

186-5-5. To ensure compliance with the CNA action plan the Committee will conduct an ongoing review with an annual summarial review of the CNA's abilities to meet the performance standards and the implementation of the action plan. The Committee will forward a copy of this annual review to the CNA's governing body and to the Director of the West Virginia Division of Rehabilitation Services. At the Committee's sole discretion, it will make a recommendation to the Director of the West Virginia Division of Rehabilitation Services regarding the current organization's status as the approved CNA.

186-5-6. The CNA shall provide to the Committee an annual budget on or before the Committee's May meeting, which reveals all revenues, expenses and earnings prior to the beginning of the CNA's fiscal year that must be approved by the Committee. This budget shall detail how the program fee is being allocated to directly support the program and what amounts are being devoted to expanding direct services to programs that enhance employment of persons with disabilities and what percentage of funds will be used for administrative overhead, such as salaries. Any revisions to said budget must be approved by the Committee in advance of the budgetary revision and transfer of funds.

- 186-5-7. The CNA will make available to the Committee for the purpose of conducting its annual review of the CNA the following:
- (1) An annual action plan prior to the beginning of the fiscal year which will meet or exceed Committee performance standards.
 - (2) Documented outcomes of the CNA's annual plan at the conclusion of the fiscal year.
 - (3) An audited financial statement at the conclusion of the fiscal year. It will include details on cash balances, earnings attributable to the program fee for the program, accounts receivable, accounts payable, cash reserves, line of credit borrowing, interest payments, bad debts, administration overhead and any detailed supporting documentation requested by the Committee.
 - (4) Monthly reports of categories of sales and accounts receivable in a reporting format approved by the Committee.
 - (5) Quarterly reports of its contracted sales of commodities and services, wages paid, and hours worked by persons with disabilities for all CRPs participating in the program.
- 186-5-8. The Committee may request the appropriate office of State government to perform an independent audit of the service fee set for the CNA and the financial condition of the CNA.
- 186-5-9. A person or organization may not operate a CRP and at the same time be approved by the director of the West Virginia Division of Rehabilitation Services as the CNA.
- In the event of an emergency situation, the CNA may only temporarily maintain a contract until another qualified CRP is assigned and any revenues shall benefit the state use program as directed by the Committee.
- 186-5-10. The services provided through the provisions of the state use program through the CNA shall be rendered impartially to all CRPs approved by the Committee in accordance with qualifications set forth in the legislative rules.
- 186-5-11. The Committee must annually review the program fees charged by the CNA. The maximum charged by the CNA for its services must be computed as a percentage of the selling price of the commodity or service, and must be included in the selling price or contract price. The program fee must be remitted to the CNA at the time of payment by the customer. The fee approved by the Committee is for the management, promotion, and adherence to the requirements of the CNA as referred in applicable West Virginia Code and Legislative Rules.

- 186-5-12. The Committee may issue a formal recommendation to the Director of the West Virginia Division of Rehabilitation Services to approve an alterative CNA, or to issue an emergency approval of a new organization to serve as the program's CNA if any of the following occur;
- (1) The current CNA ceases operations
 - (2) The CNA gives notice that it cannot accomplish the performance standards set forth by the Committee or implement the action plan
 - (3) The Committee's review of the CNA results in disapproval of its performance.

Agency: Department of Administration

Title Number: 186

Rule Type: Procedural

Cite Authority: 5A-3A-4

COMMENTS / RESPONSES

Several comments were received in response to the proposed Procedural Rules for Monitoring the Central Nonprofit Agency during the comment period. Those comments and the Governor's Committee for the Purchase of Commodities and Services from the Handicapped responses are listed below:

Comment:

The proposed procedural rules extend beyond what would be considered procedural rules and should be legislative rules.

Response:

The Committee voted unanimously to proceed with the rules as procedural rules as the Statute clearly states that the Committee must monitor the CNA and the procedural rules outline how the CNA will be monitored. No modifications are being made to the rules as a result of this comment.

Comment:

The Committee should only "review" instead of "approve" the budget of the CNA.

Response:

The Committee voted unanimously not to modify the procedural rules to change the wording as the Committee must approve the budget to assure accountability of public funds.

Comment:

The procedural rules were filed without the consent and approval of the State Use Committee:

Response:

This comment is not true. The Governor's Committee for the Purchase of Commodities and Services from the Handicapped spent several meetings going through the rules making revisions. The procedural rules were approved by a unanimous vote not only for the initial rules but also to approve each and every modification made by the committee.

Comment:

The rules were done without input from the West Virginia Association of Rehabilitation Facilities.

Response:

This comment is not true. The rules were put out for public comment on two different occasions through the Secretary of State and listed in the State Register as required. In addition, a copy of the rules were mailed to each and every community rehabilitation program in the state, most of which are members of WVARF, with a letter stating the rules were being proposed and soliciting comments.

Comment:

The rules state that performance standards will be developed annually. Perhaps this needs to be more specific in terms of time.

Response:

The Committee agrees and has modified section 186-5-3 to state when the standards shall be developed.

Comment:

The rules state that a review shall be done annually to ensure the CNA's compliance with the action plan. A lot can go wrong in a year and perhaps this should be done monthly or quarterly.

Response:

The committee agrees and has modified section 186-5-5 to state that the committee shall conduct an ongoing review and annual summarial review.

Comment:

The WV State Use Program fees need to be posted separately and audited separately from any other revenue stream.

Response:

The committee agrees with this comment and that is one reason for the development of the procedural rules to begin with. However, no modifications were made as a result of the comment as the procedural rules will take care of this concern as soon as they become effective.

Comment:

If an alternative CNA is obtained then will this be bid out? If so, would ask the Attorney General the legality of forcing a private corporation to put its contracts into another corporation's name.

Response:

The procedural rules do not address these issues and, therefore, no modifications were necessary to the procedural rules as a result of this comment.

Comment:

The fee approved by the committee is for the management, promotion and adherence to the requirements of the CNA as referred in WV Code 5A-3A-2 and there is no reference in that section to the program fee paid by the CNA.

Response:

The committee modified the rules in response to this comment to state "applicable West Virginia Code and Legislative Rules" to be more accurate in identifying the applicable law.

Comment:

The rules state the committee will have oversight over the revenues and expenses associated with the program fee. There is no reference in 5A-3A-4 to any oversight of revenues.

Response:

The Statue clearly gives the committee the authority to monitor the CNA and an important part of that monitoring is to assure fiscal responsibility and correct use of public funds. Therefore, not modifications were made in response to this comment.

Comment:

The rules state that the committee may request an independent audit of the service fee set for the CNA. Will the committee bear the costs of such duplicate services?

Response:

The rules do not address this issue. Therefore, no modification to the rules is necessary. However, the committee has authority over the budget and if this issue would come up then it could be addressed during the budget process.

Comment:

The rules state that the CNA may only temporarily maintain a contract and any revenues shall benefit the state use program as directed by the committee. Any revenues accruing to WVARF shall be used at the direction of the Board of Directors not the committee.

Response:

No modification to the rules is necessary in response to this comment. The committee has authority over the budget and if this issue would come up then it could be addressed during the budget process.

Jackson County Developmental Center, Inc.

112 Industrial Lane



Millwood, WV 25262

Phone: (304) 273-9311

Fax: (304) 273-5131

January 8, 2004

Donna M. Lipscomb, Executive Coordinator
State of West Virginia
Department of Administration
Office of the Cabinet Secretary
1900 Kanawha Boulevard
Building 1, Room E-119
Charleston, WV 25305-0120

Re: Proposed Procedural Rules

Dear Ms. Lipscomb:

It is my understanding that the Committee for the Purchase of Commodities and Services from the Handicapped is proposing to establish procedural rules to monitor the Central Non-Profit which implements the State Use Program. This letter is to offer comments regarding the proposed rules and to address other considerations.

186-5-3 Committee Responsibilities.

3.1 "The Committee will develop performance standards annually . . ." Perhaps this needs to be more specific in terms of time. I noticed that the Central Non-Profit Agency must provide a budget by May and submit an action plan before the beginning of the fiscal year. The CNA should expect when those standards will be forthcoming.

186-5-5 To ensure compliance with the CNA action plan the Committee will conduct an annual review. . . " A LOT can go wrong in a year. A few months neglect in any area can cause irreparable damage. It is my understanding that the Committee will be receiving monthly and quarterly reports. I think those reports need to be compared with the progress of the plan twice a year (after the 1st quarter and the 3rd quarter) at a minimum. OR. The Committee could ask for a comparative report on a quarterly basis.

186-5-7 (3) An audited financial statement at the conclusion of the fiscal year. *et al.* I think the WV State Use Program fees need to be posted separately and audited separately from any other revenue stream regardless who the CNA might be. If a management corporation should assume the role of the non-profit agency and it manages thousands of other accounts, I think the Committee would want to see its own revenue

stream absent from all others. I remember having to keep a separate set of accounting ledgers as fiscal agent for the Job Training Partnership Act programs. The practice keeps the money trail clean and beyond reproach. Quite frankly, in the dual role of the West Virginia Association of Rehabilitation Facilities (WV-ARF), I wonder how much money the CNA has and how much money the association has.

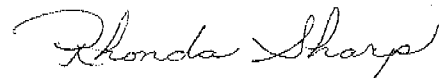
186-5-12 Alternative Central Non-profit Agency. In the event this is to occur, will the Division of Rehabilitation Services bid the opportunity? And if so, should it not go to bid now? An entity that does not have the intimate ties with the rehabilitation community that WV-ARF does would have no reason have contracts put in its name. Why then, is the current CNA holding contracts? If it is the "association" side of WV-ARF holding the contracts, then I would have to ask the Attorney General the legality of forcing a private corporation to put its contracts into another corporation's name via WV Code or Rules.

The following two elements lead me to additional comments. I am not sure that this is the correct venue. If not, I trust that you will pass the word along or guide me in the right direction.

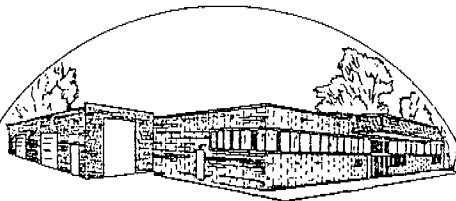
First, the West Virginia Code mandates that a representative of a producing nonprofit workshop be a member of the Committee. I am hopeful that Committee rules prohibit this representative from voting on (1) his/her own contracts and (2) any issue involving two or more workshops. This representative should not have to make a decision between his/her associates. Minutes of the meetings could reflect the abstention and why.

Second, I refer to the code 186CSR3 §186-3-5 entitled Distribution of Orders. I have a concern about the role of the West Virginia Association of Rehabilitation Facilities (WV-ARF) as the CNA in this regard. At all other levels, it advocates for all members collectively and impartially. When called upon to make a choice as the CNA, any decision for one center over other(s) inherently lends itself to the scrutiny of fairness and of ethical practices. In the event the Committee must select an alternative CNA for any reason, I believe it would be a good time to select a true unequivocally impartial agent.

Respectfully,

A handwritten signature in cursive script that reads "Rhonda Sharp".

Rhonda Sharp
Executive Director



HANCOCK COUNTY SHELTERED WORKSHOP, INC.

1100 Pennsylvania Avenue - Weirton, West Virginia 26062

Fred W. Hendershot
Executive Director

304 748-2370
Fax 304 748-3910
1-888-422-2370

January 16, 2004

Ms. Donna Lipscomb
Executive Director
WV Department of Administration
1900 Kanawha Boulevard, East
Room E-119
Charleston, West Virginia 25305

Dear Ms. Lipscomb:

This correspondence is being forwarded in response to the "Proposed Procedural Rules" that the Committee for the Purchase of Commodities and Services from the Handicapped is proposing to adopt. I understand the reason for this proposal and concur with the need to define rules of accountability for all providers of state use services.

After reviewing the Title 186 Procedural Rules, I would suggest one change. Statement 186-5-6 reads: "The CNA shall provide to the Committee an annual budget . . . that must be approved by the Committee." I would change the word approved to reviewed.

I believe that a "review" by the Committee accomplishes the goal being sought and mandates the accountability needed to insure compliance. More importantly, it allows the flexibility required by all parties involved as we continue to partner and expand the State Use Program in meeting the needs of West Virginians with disabilities.

Thank you for your consideration of this input. If additional information is needed, please advise.

Sincerely,

Fred W. Hendershot

FWH/gjj

January 20, 2004

Bob McCoy
Executive Director
Randolph County Sheltered Workshop, Inc.
890 Industrial Park Rd.
Elkins, WV 26241

Donna Lipscomb
Executive Coordinator
WV Department of Administration
1900 Kanawha Blvd., East
Room E-119
Charleston, WV 25305

Dear Ms. Lipscomb:

Following are my comments on the proposed Procedural Rules filed by you with the Secretary of State's Office on December 23, 2003.

General comments:

It is my belief that your proposal exceeds the parameters of what would normally be considered Procedural Rules. This proposal seems to more closely resemble Legislative Rules since it fundamentally alters the relationships between the parties involved. Referenced authority 5A-3A-4 does not bestow the Committee with any budgetary authority over the CNA.

The proposal was submitted to the Secretary of State on December 23rd and the comment period established until January 22nd. However, the packets were not mailed until January 2nd and I received mine on January 5th. This effectively reduced the comment period to 17 days. In addition, there was no verification of the distribution of the proposal. I know of one CRP that did not receive the mailing.

The Statement of Circumstance says, "These rules will ensure the Central Non-Profit Agency's compliance to statutory requirements..." This clearly implies there has been non-compliance. If there have been instances of violations of the statute, please enumerate them. Otherwise, there hardly seems to be a pressing need to prevent something that hasn't happened.

Specific comments:

You cite WV Code 5A-3A-4(b) as giving the Committee authority to monitor the activities of the

CNA. The Code says that the Committee shall monitor "the activities of the CNA to assure that the interests of the state's handicapped citizens are advanced by the agency".

186-5-3.2 The Committee will have oversight over the revenues and expenses associated with the program fee..." There is no reference in 5A-3A-4 to any oversight by the Committee of the CNA's revenues and expenses. There is nothing stated or implied to give the Committee this authority.

186-5-6 "The CNA shall provide to the Committee an annual budget...that must be approved by the Committee." This entire paragraph clearly exceeds the intent of the legislation. In addition, WVARF, Inc is a private, not-for-profit, 501(c)(3) corporation under the laws of the State of West Virginia. We have a Board of Directors that is responsible for the fiscal and fiduciary activities of the corporation. This is true for all not-for-profit corporations. WVARF, Inc acting as the designated CNA does not change the corporate laws of the State.

186-5-8 "The Committee may request the appropriate office of State government to perform an independent audit of the service fee set for the CNA and the financial condition of the CNA." The Committee sets the service fee and in paragraph 186-5-7 the Committee has already asked for the audited financial statements. ??? Will the Committee bear the costs of duplicate services?

186-5-9 "In the event of an emergency situation, the CNA may only temporarily maintain a contract...and any revenues shall benefit the state use program as directed by the Committee." Once again, any revenues accruing to WVARF, Inc, other than restricted grants, shall be used at the direction of its Board of Directors.

186-5-11 "The fee approved by the Committee is for the management, promotion and adherence to the requirements of the CNA as referred in WV Code 5A-3A-2." WV Code 5A-3A-2 makes no reference to the program fee paid to the CNA.

186-5-12 This entire paragraph is obviously intended to intimidate and exert total control over the CNA. Item (3) is particularly offensive. What does "disapproval" mean? This seems extremely whimsical and arbitrary.

In my opinion, these proposed rules to "monitor" the CNA are onerous and burdensome and far exceed the intent of the "monitoring" activity as delineated in WV Code 5A-3A-4. Absent any specific violations of the relevant statutes, I would request that this entire proposal be revisited.

Sincerely,

A handwritten signature in black ink, appearing to read "Bob McCoy". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Bob McCoy
Executive Director

cc Members, Governor's Committee for the Purchase of Commodities and Services from the
Handicapped

Secretary of State

Director, WVDRS

State Senator Mike Ross

State Senator Walt Helmick

F A X

TO: *Donna Lipscomb*

FROM: *Marsha Allman*

Please give this to Donna.

Donna,

The original will be mailed to you today.

Thanks!

Marsha

Harrison County Sheltered Workshop, Inc.
1430 Cost Avenue Stanwood, WV 26301-4879

Telephone: (304) 623-3757

Facsimile: (304) 623-3758

E-Mail: hcswr@ioline.net

January 20, 2004

Donna M. Lipscomb, Member
Governor's Committee for the Purchase
of Commodities and Services from the Handicapped
c/o WV Department of Administration
1900 Kanawha Boulevard, East
Room E-119
Charleston, WV 25305

Ms. Lipscomb:

This letter is about the rules you have proposed and which you filed with the Secretary of State's Office on December 23, 2003. My comments are as follows.

- First of all, according to Steve King, Executive Director of the West Virginia Association of Rehabilitation Facilities, Inc. (hereafter, Association), you have filed these rules without the consent and approval of the State Use Committee.
- These rules were discussed without input of the Association or the members and sub-contractors who are the soul of the State Use Law. When discussed at the State Use meetings, they were considered confidential and were not discussed in any detail. For example, I took minutes on my own and recorded you as saying that "At the beginning of the fiscal year the CNA will provide an annual budget on or before the May meeting of the State Use Committee." This is much different from 186-3-6, which states that said budget "must be approved by the Committee"; and, it goes on to infer control by the committee over "administrative overhead, such as salaries." Does this mean that the Committee will tell the membership what we can pay the office staff of the Association?
- These rules appear to be more like Legislative Rules instead of Procedural Rules as you have indicated on the Notice of a Comment Period on a Proposed Rule.
- You filed the rules on December 23. You wrote your letter to the CRPs on December 26. You mailed the letters and a copy of the proposed rules on January 2, 2004. You did not make sure that all those affected received a copy of these proposed rules. (Case in point - I did not receive the information from you. Steve King faxed a copy to me on January 9, 2004.)
- The comment period ends January 22, 2004, seven days before the next regularly scheduled meeting of the members of the Association. Was this planned in order to keep us from discussing your rules as a group?
- Rules for monitoring the Central Nonprofit Agency can be a good thing, but when it becomes control of the CNA -- or the Association in this case, then the rules have gone too far.

Sincerely,



Martha Faris Allman

Executive Director, Harrison County Sheltered Workshop, Inc.
Chair, West Virginia State Rehabilitation Council, Inc.



West Virginia Association of Rehabilitation Facilities

January 20, 2004

Ms. Donna M. Libscomb
Executive Coordinator
Department of Administration
1900 Kanawha Blvd., East
Charleston, WV 25305-0120

Dear Ms. Libscomb:

A handwritten signature in cursive script, appearing to read 'Donna', is written over the printed name 'Donna M. Libscomb'.

We respectfully submit the following comments relative to the proposed procedural rules submitted by the Committee for the Purchase of Commodities and Services from the Handicapped (the Committee).

WVARF, the CNA that administers the State Use Program in West Virginia, appreciates the effort and interest of the Committee in creating procedural rules that will enhance the Committee's ability to appropriately monitor and guide the CNA in meeting its responsibilities and increase the number of individuals with disabilities served by the program. We realize that we are in a constantly changing public environment that requires increased accountability to all constituencies. The Committee must be assured the administration and use of government-provided resources are in accordance with statutory requirements and applicable standards.

WVARF as the current CNA has no reservations about its ability to comply with the procedural rules being proposed that will govern the monitoring of its activities. Further, we are aware that most of the State Use Programs throughout the nation have similar rules. We look forward to working with the Committee to implement the procedures contained in the proposed rules.

There is one concern that we have regarding the wording in section 186-5-6. This section directs the CNA to submit an annual budget on or before the Committee's May meeting "...that must be approved by the Committee." The last sentence in this section further states that "Any revisions to said budget must be approved by the Committee in advance of the budgetary revision and transfer of funds." It is the suggestion in the rules that the Committee *review* the budget and any subsequent revisions that we feel are problematic.

P.O. Box 745
Institute West Virginia 25112
(304) 766-4894 • Fax (304) 766-4607
www.wvarf.org

WVARF's budget, which will include the separated budget activities of the CNA as well as the association-related revenue and expenses, is approved annually by our membership (which is also our board of directors). Official approval of a non-profit organization's budget is a normal function of its board of directors since it is legally charged with the governance of the corporation and legally responsible for its well-being. In keeping with the Committee's right to require a separate budget for the CNA to be developed and supplied to the Committee, we believe the Committee's role as an oversight/monitoring body might be better served by *review of* the budget and be informed of any revisions to it in advance.


In section 186-5-3 (3.1) the Committee will have developed and approved performance standards for the CNA, and in (3.2) it will have *oversight* of the revenues and expenses associated with the program fee necessary to meet the objectives or performance standards. These two Committee responsibilities in effect will determine the manner in which the budget is developed and followed, while leaving WVARF's board of directors with the normal fiduciary responsibility of approving its budget.

We thank you for the opportunity to provide this comment.

Sincerely,



Deana Thompson, WVARF President



Stephen R. King, Executive Director

From: <Theopshop@aol.com>
To: <dlipscomb@gwmail.state.wv.us>
Date: 1/22/04 8:51AM
Subject: Procedural Rules

Donna-

I had sent a "comment" via email that was returned because I typed your address in wrong. The short version would be that I believe the rules are fine other than I believe that the Governor's Committee should review rather than approve the WVARF Budget. I believe that the Committee's powers for veto and corrective actions are strong enough that it would not be necessary that they approve the budget. I also believe this would make it more acceptable to the membership as a whole. I'm hoping that the membership will submit a comment that has been approved by the whole membership after our meeting next week.

Sincerely,

Jan Smith

The Op Shop

316 Columbia Street

Fairmont, WV 26554

304-366-5737

From: "Steve King" <sking@wvarf.org>
To: "Donna Lipscomb" <dlipscomb@gwmail.state.wv.us>
Date: 1/26/04 1:34PM
Subject: Rules

Hi Donna:

I feel the need to clarify or refute a statement that I note in a letter to you from Marsha Allman, in relation to the rules and the comment period for same. In her letter to you in the first paragraph, or point #1, she attributes a statement about the approval of the rules not being acted upon by the Committee, to me. This was not the case and is certainly not how I saw the work of the Committee or its having acted upon your work to get them into final draft form. I heard this position being attributed to Lee Dixon, but when I later asked him about it, he indicated he had had no conversation with anyone about that particular issue. So I guess in the absence of anyone else to attribute the statement to, she chose to use my name. Just wanted you to know that I did not misrepresent the hard work of the Committee with such a statement.

Thanks for all the work that you have done that a few of these misguided people would sabotage and misrepresent.

Steve

Stephen R. King
WVARF
PO Box 745
Institute, WV 25112
sking@wvarf.org

Outgoing mail is certified Virus Free.
Checked by AVG anti-virus system (<http://www.grisoft.com>).
Version: 6.0.564 / Virus Database: 356 - Release Date: 1/19/2004



West Virginia Association of Rehabilitation Facilities

March 4, 2004

Ms. Donna Lipscomb
Executive Coordinator
WV Department of Administration
1900 Kanawha Blvd., East
Room E-119
Charleston, WV 25305

Dear Ms. Lipscomb:

I am writing on behalf of the West Virginia Association of Rehabilitation Facilities, Inc. concerning the proposed rules which you submitted to the Secretary of State's Office on December 23, 2003.

As you may be aware, the Board of Directors of WVARF has several concerns about the nature, need and content of the proposed rules. First and foremost, we feel these proposed rules extend far beyond what would normally be called Procedural Rules. It is our belief that many of these rules infringe on our rights as a private, not-for-profit corporation and as such extend into the area of Legislative Rules. For example, 186-5-3.2 and 186-5-6 appear to exceed the intent of the Legislature for the Committee to monitor the CNA.

WVARF, Inc., its member CRPs and the Committee have worked together for many years to promote and grow a healthy and viable State Use Program. Please be assured that it is our desire to continue to grow and promote this program. It is in our best interests to do so. It is the mission of every CRP to maximize the employment potential of workers with disabilities. We want to work with the Committee to achieve these goals.

In order to further our common goals, we would like to meet with the Committee to discuss these issues. We feel very strongly that meeting face-to-face and discussing our concerns and desires will go a long way toward resolving whatever differences exist. I would therefore request that Lee Dixon and I schedule a meeting at the earliest possible convenient time. The sooner we can resolve these current issues, the sooner we can devote ourselves to achieving our common mission.

Respectfully,

A handwritten signature in cursive script that reads "Deana Thompson".

Deana Thompson
President, WVARF

cc Lee Dixon, Chair, Committee for the Purchase of Commodities
and Services from the Handicapped

P.O. Box 745
Institute, West Virginia 25112
(304) 766-4894 • Fax (304) 766-4607
www.wvarf.org

March 9, 2004

Mr. Lee Dixon
Chairman, Governor's Committee
Rt. 2 Box 62
Buckhannon, WV 26201

Dear Lee:

As a self-identified group of concerned producers of State Use commodities and services in the state of West Virginia, we value the Committee's role in providing employment opportunities for persons with disabilities. It is our desire to cooperate fully with the Governor's Committee and to work together to expand the State Use program.

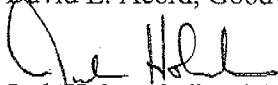
We respectfully request that representatives of our group be included on your March 17 meeting agenda to discuss our point of view regarding goals and strategic planning.

Thank you for your consideration of our request.

Respectfully,



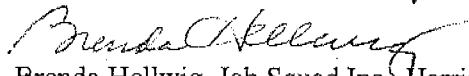
David L. Acord, Goodwill Industries of Kanawha Valley, Inc.



Jack Holcomb, Precision Services, Braxton County



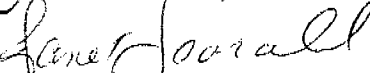
Jan Smith, The Op Shop, Inc., Marion County



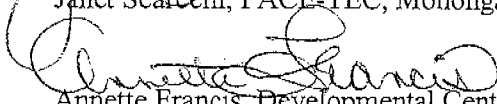
Brenda Hellwig, Job Squad Inc., Harrison County



James L. Gamble, Sheltered Workshop of Nicholas County



Janet Scarcelli, PACE-TEC, Monongalia County



Annette Francis, Developmental Center and Workshop, Inc., Mineral County

CC: Steve King, WVARF
Members of the Governor's Committee